

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

EL GAVILAN INVESTMENTS, LLC,  
*Plaintiff,*

v.

WESTCHESTER SURPLUS LINES  
INSURANCE COMPANY,  
*Defendant.*

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CIVIL ACTION NO. 7:21-cv-104

**DEFENDANT’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Westchester Surplus Lines Insurance Company (“WSLIC”) files this Notice of Removal and respectfully shows that diversity subject-matter jurisdiction exists and removal is timely.

**I.**  
**REMOVAL IS TIMELY**

1. On February 22, 2021, Plaintiff filed its Original Petition in the matter styled *El Gavilan Investments, LLC v. Westchester Surplus Lines Insurance Company*, Cause No. C-0637-21-F, in the 332nd Judicial District Court of Hidalgo County, Texas.

2. Pursuant to the return of service on file in the lawsuit, WSLIC’s registered agent was served on March 1, 2021.

3. Under federal law, “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .” 28 U.S.C. § 1446(b)(1).

4. WSLIC files this Notice of Removal within the thirty-day time period. *See* 28 U.S.C. § 1446(b). Accordingly, removal of this action is timely.

**II.**  
**DIVERSITY OF CITIZENSHIP**

5. Removal is proper under 28 U.S.C. § 1332(a)(1) because there is currently complete diversity of citizenship, and complete diversity existed on the date the state court case was filed.

6. Plaintiff is a Texas limited liability company. Plaintiff's sole member is Felix Trevino who is an individual and citizen of Alton, Texas. Mr. Trevino resides and is domiciled in Alton, Texas. Therefore, Plaintiff is a citizen of the State of Texas.

7. Defendant WSLIC is an insurance company incorporated in the State of Georgia, with its principal place of business in the Commonwealth of Pennsylvania. Therefore, WSLIC is a citizen of the State of Georgia and the Commonwealth of Pennsylvania.

**III.**  
**VENUE IS PROPER**

8. Venue is proper in the United States District Court for the Southern District of Texas, McAllen Division, under 28 U.S.C. §§ 124 and 1446, since it is the district and division within which such action is pending in state court.

**IV.**  
**AMOUNT IN CONTROVERSY**

9. Plaintiff's suit arises out of a dispute regarding an insurance claim for property damage caused by a storm. According to the petition, Plaintiff "seeks monetary relief of over two-hundred fifty thousand dollars (\$250,000.00) and less than one-million dollars." (Pl.'s Pet. ¶ 48.) Therefore, the amount in controversy exceeds the \$75,000.00 threshold required to invoke this Court's jurisdiction. 28 U.S.C. § 1332(a).

**V.**

**REMOVAL IS PROCEDURALLY CORRECT**

10. Pursuant to 28 U.S.C. §1446(a) and Local Rule 81, attached hereto are the following documents:

- a. An index of all matters being filed (**Exhibit A**);
- b. All executed process in the case (**Exhibit B**);
- c. Pleadings asserting causes of action, *e.g.*, petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings (**Exhibits C and D**);
- d. All orders signed by the state judge (none);
- e. The docket report (**Exhibit E**); and
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented (**Exhibit F**).

11. Pursuant to 28 U.S.C. §1446(d), promptly after WSLIC files this Notice, written notice of the filing will be given to Plaintiff.

12. Pursuant to 28 U.S.C. §1446(d), promptly after WSLIC files this Notice of Removal, a true and correct copy will be filed with the District Clerk of the Hidalgo County District Court.

**VI.**

**RELIEF REQUESTED**

13. Because the amount in controversy exceeds \$75,000.00 and complete diversity of citizenship exists, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and the action is properly removed pursuant to 28 U.S.C. § 1441.

14. Defendant WSLIC respectfully requests that the United States District Court for the Southern District of Texas, McAllen Division, accept and file this Notice of Removal, assume jurisdiction of this action, and issue all such further orders and processes as may be necessary.

Respectfully submitted:

By: /s/ Stephen Pate

Stephen Pate

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**ATTORNEYS FOR WESTCHESTER  
SURPLUS LINES INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

This certifies that, on March 23, 2021, a true copy of the foregoing was served on the following counsel of record via mail and email pursuant to the Federal Rules of Civil Procedure:

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